

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 1:07cr6-6

EUGENE JONES

Defendant.

ORDER/OPINION

On the 2nd day of May 2007, came the United States of America by Zelda E. Wesley, Assistant United States Attorney, and also came the defendant, Eugene Jones, in person, and by his counsel, Joan A. Mooney, for hearing on a Petition for Action on Conditions of Pretrial Release filed by Vincent Zummo, Defendant's Adult Pretrial Services Officer, on April 25, 2007.

On February 23, 2007, Defendant was released on conditions set by Order. On April 25, 2007, Defendant's Adult Pretrial Services Officer filed a Petition for Action on Conditions of Pretrial Release alleging Defendant had violated Condition 7(p) of his Conditions of Pretrial Release.

The Court heard the sworn testimony of Defendant's Adult Pretrial Services Officer Vincent Zummo. At the conclusion of the evidence the Court makes the following findings of fact by a preponderance of the evidence:

1. Defendant was placed on pretrial release on February 23, 2007.
2. On April 17, 2007, Defendant submitted a urine specimen that tested positive for marijuana.
3. The Adult Pretrial Services Officer discussed drug treatment counseling with Defendant, but Defendant denied any usage, stating that he had just been around some friends who

were using marijuana.

4. The positive drug test was confirmed by Scientific Testing Laboratories on April 20, 2007.

Based upon the Court's findings of fact, the Court concludes by clear and convincing evidence that Defendant violated Condition 7(p) of the Order Setting Conditions of Release by testing positive for marijuana. The Court further concludes that counseling is unlikely to be of any benefit to Defendant as he denied usage.

Defendant, through counsel, then admitted he had used marijuana on that one occasion, and requested he be permitted to remain on bond pursuant to conditions of release to include frequent drug testing. Defendant asked to speak directly to the Court regarding his usage of marijuana on the one occasion, and the reason he denied using marijuana to his Adult Pretrial Services Officer. Based on Defendant's unsworn but eloquent statement to the Court, the Court returns Defendant to pretrial release under the conditions set by the prior order. The Court directed Defendant to cooperate with his Pretrial Services Officer in obtaining substance abuse treatment, and warned that any illegal drug usage, failure to attend treatment or counseling, or any other violation of his conditions of pretrial release would not be looked upon sympathetically by the Court and would most likely result in revocation.

The Clerk is directed to send copies of this Order to counsel of record, to the United States Marshal, and to the United States Probation Officer.

DATED: May 7, 2007



JOHN S. KAULL

UNITED STATES MAGISTRATE JUDGE